

By: Representative Wells-Smith

To: Judiciary B

HOUSE BILL NO. 422

1 AN ACT TO AMEND SECTION 97-19-57, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE TIME PERIOD TO TENDER PAYMENT ON A BAD CHECK; AND
3 FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 SECTION 1. Section 97-19-57, Mississippi Code of 1972, is
6 amended as follows:

7 97-19-57. (1) As against the maker or drawer thereof, the
8 making, drawing, issuing, uttering or delivering of a check, draft
9 or order, payment of which is refused by the drawee, shall be
10 prima facie evidence and create a presumption of intent to defraud
11 and of knowledge of insufficient funds in, or on deposit with,
12 such bank, corporation, firm or person, provided such maker or
13 drawer shall not have paid the holder thereof the amount due
14 thereon, together with a service charge of Thirty Dollars
15 (\$30.00), within fifteen (15) days after receiving notice that
16 such check, draft or order has not been paid by the drawee.

17 (2) For purposes of Section 11-7-12, the form of the notice
18 provided for in subsection (1) of this section shall be sent by
19 regular mail and shall be substantially as follows: "This
20 statutory notice is provided pursuant to Section 97-19-57,
21 Mississippi Code of 1972. You are hereby notified that a check,
22 draft or order numbered _____, apparently issued by you on _____
23 (date), drawn upon _____ (name of bank), and payable to _____, has
24 been dishonored. Pursuant to Mississippi law, you have fifteen
25 (15) days from receipt of this notice to tender payment of the
26 full amount of such check, draft or order, plus a service charge
27 of Thirty Dollars (\$30.00), the total amount due being \$_____.

28 Failure to pay this amount in full within the time specified above
29 shall be prima facie evidence of and create a presumption of both
30 the intent to defraud and the knowledge of insufficient funds in,
31 or on deposit with, such bank in violation of Section 97-19-55."

32 (3) For purposes of Section 97-19-67, the form of the notice
33 provided for in subsection (1) of this section shall be sent by
34 certified or registered mail and shall be substantially as
35 follows: "This statutory notice is provided pursuant to Section
36 97-19-57, Mississippi Code of 1972. You are hereby notified that
37 a check, draft or order numbered _____, apparently issued by you
38 on _____ (date), drawn upon _____ (name of bank), and payable to
39 _____, has been dishonored. Pursuant to Mississippi law, you have
40 fifteen (15) days from receipt of this notice to tender payment of
41 the full amount of such check, draft or order, plus a service
42 charge of Thirty Dollars (\$30.00), the total amount due being
43 \$_____. Unless this amount is paid in full within the time
44 specified above, the holder may assume that you delivered the
45 instrument with intent to defraud and may turn over the dishonored
46 instrument and all other available information relating to this
47 incident to the proper authorities for criminal prosecution."

48 (4) If any notice is returned undelivered to the sender
49 after such notice was mailed to the address printed on the check,
50 draft or order, or to the address given by the accused at the time
51 of issuance of the instrument, such return shall be prima facie
52 evidence of the maker's or drawer's intent to defraud.

53 (5) Without in any way limiting the provisions of this
54 section, this section shall apply to a draft for the payment of
55 money given for a motor vehicle even if such payment is
56 conditioned upon delivery of documents necessary for transfer of a
57 valid title to the purchaser.

58 SECTION 2. This act shall take effect and be in force from
59 and after July 1, 2001.